

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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Rockville, Maryland 20850

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

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**Case No. S-2765**

**PETITION OF RICHARD L. AND FLORENCE S. HOFF**

OPINION OF THE BOARD

(Opinion Adopted September 8, 2010)  
(Effective Date of Opinion: October 7, 2010)

Case No. S-2765 is an application for a special exception, pursuant to Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The subject property is Lot 30, Block F, Quince Orchard Valley Subdivision, located at 12212 Bradbury Drive, Gaithersburg, Maryland 20878, in the R-200 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on June 11, 2010, closed the record in the case on July 6, 2010, and on July 30, 2010 issued a Report and Recommendation for approval of the special exception.

Decision of the Board:                      Special Exception **Granted** Subject to  
the Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on September 8, 2010. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioners shall be bound by all of their testimony, representations and exhibits of record identified in the Hearing Examiner's report and in the Board's opinion;
2. Petitioners must comply with DHCA's determination of the maximum

permitted occupancy for the accessory apartment (*i.e.*, the accessory apartment may be occupied by no more than two (2) persons, and the other DHCA directives needed to ensure that the accessory apartment is maintained up to Code, as listed in Exhibit 55:

- a. The efficiency unit consists of 265.2 square feet, which would allow for 2 occupants.
- b. A walkway from the front yard leading down the hill to the front door of the accessory apartment needs to be installed. Pavers, slate or gravel walkway is acceptable. Must be installed in a professional, workmanlike manner.
- c. Dresser in front of egress window needs to be removed. Direct access to egress window is required at all times (remove potted plants, etc. from window sill).
- d. A single cylinder deadbolt lock must be installed to the front door (thumb latch type lock).
- e. Holes in shower stall need to be repaired.
- f. All electrical circuits for the entire facility must be properly labeled.
- g. A door must be installed to access water heater.
- h. A pressure relief valve must be installed to the water heater.

3. Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;

4. Petitioners must not have a guest room for rent, a boardinghouse or a registered living unit, in addition to the accessory apartment, and they must not receive compensation for the occupancy of more than one dwelling unit;

5. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons;

6. Petitioners must make off-street parking spaces available for all vehicles they permit their accessory apartment tenants to house on the premises; and

7. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by Stanley B. Boyd, with David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement and Walter S. Booth necessarily absent:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 7<sup>th</sup> day of October, 2010.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.